

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

99-CR-90-C-01

STEVEN L. BOLES,

Defendant.

A hearing on the probation office's petition for judicial review of Steven L. Boles' supervised release was held on October 22, 2009, before United States District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Rita M. Rumbelow. Defendant was present in person and by counsel, Kelly A. Welsh. Also present was Senior United States Probation Officer Michael D. Harper.

From the record and stipulation, I make the following findings of fact.

FACTS

Defendant was sentenced in the Western District of Wisconsin on January 14, 2000, following his conviction for possession with intent to distribute methamphetamine, in violation of 21 U.S.C. § 842(a)(1). This offense is a Class B felony. He was committed to

the custody of the Bureau of Prisons to serve a term of imprisonment of 87 months, with a 60-month term of supervised release to follow.

Defendant began his term of supervised release on February 24, 2006. On May 14, 2009, he violated the mandatory conditions of supervised release prohibiting him from committing another federal, state, or local crime and prohibiting him from illegally possessing a controlled substance, when he delivered 28 ounces of cocaine to an undercover officer. The delivery of cocaine resulted in his conviction on two separate cases for possession with intent to deliver cocaine in the Circuit Court for Winnebago County (Case Nos. 2009CF000285 and 2009CF000387). On May 14, 2009, defendant violated Standard Condition No. 1, prohibiting him from leaving the judicial district without the permission of the court or probation officer, when he traveled to Oshkosh, Wisconsin.

Defendant's conduct falls into the category of a Grade A violation. Section 7B1.3(a)(1) of the advisory guidelines provides that the court shall revoke supervised release upon a finding of a Grade A violation. 18 U.S.C. § 3583(g)(1) requires the mandatory revocation of the term of supervised release if the court finds the defendant illegally possessed a controlled substance.

CONCLUSIONS

Defendant's violations require revocation. With a Grade A violation and a criminal

history category of III, defendant has an advisory guideline term of imprisonment range of 18 to 24 months. The statutory maximum to which defendant can be sentenced upon revocation is 36 months, pursuant to 18 U.S.C. §3583(e)(3), which provides that a person whose term of supervised release is revoked may not be required to serve more than three years if the offense for which defendant was sentenced previously was a Class B felony.

After reviewing the non-binding policy statements of chapter 7 of the Sentencing Guidelines, I have selected a sentence above the guideline range. The intent of this sentence is to take into account defendant's criminal history, to hold him accountable for these violations and to protect the public from future criminal acts.

ORDER

IT IS ORDERED that the period of supervised release imposed on defendant on January 13, 2000, is REVOKED and defendant is committed to the custody of the Bureau of Prisons for a term of 24 months to be served consecutively to the state term of imprisonment that he is currently serving under Winnebago County Court Case Nos. 2009CF000285 and 2009CF000387. No term of supervised release shall follow.

Defendant is to be registered with local law enforcement agencies and the state attorney general before his release from confinement.

Defendant does not have the financial means or earning capacity to pay the cost of

incarceration.

Entered this 22d day of October 2009.

BY THE COURT:
/s/
BARBARA B. CRABB
Chief District Judge